The Air Transport Association of America, Inc.[1] ("ATA") submits the following comments concerning the State of Washington Department of Ecology's proposal to reissue the State Waste Discharge General Permit for Stormwater Discharges Associated with Industrial Activities (the "General Permit"). As discussed by telephone on April 30, 2002, we are filing these comments by e-mail to the address specified (KJOH461@ecy.wa.gov ), as well as by overnight delivery.

As tenants of the nation's airports, the member air carriers of ATA directly bear the burden of permit conditions affecting aircraft deicing practices and other operational matters affected by the permit. In addition, many of the infrastructure and other costs initially imposed on airports are transferred to ATA's member air carriers under the terms of lease agreements, through special fees, or otherwise. As a result, ATA and its members are directly affected by the proposed re-issuance of the General Permit as it applies to air transportation facilities. We appreciate the opportunity to provide these comments on the draft permit.

As permit holders at airports throughout the United States, ATA's member carriers have firsthand experience with each of the states' approaches to permitting stormwater discharges from airport facilities. The breadth of that experience results in an insight into the advantages and disadvantages of various regulatory approaches that is nearly unique among regulated industries. It is our hope through these comments to share the fruits of that experience with the Department on three specific points: (1) the importance of encouraging integrated Storm Water Pollution Prevention Plans developed jointly by an airport and its carrier tenants; (2) the benefits of a coordinated sampling plan, established jointly by the airport and the carriers, upon which all permittees can rely; and (3) the need to assess the reasonableness of potential Best Management Practices on a site-specific basis. ATA and its members have found these attributes to be indispensable to the effective control of stormwater discharges at airports.

## BACKGROUND

The application of a stormwater permit to airport operations presents a number of unique challenges. Unlike most of the industrial facilities to which such permits are applied, airport operations are characterized by the presence of a single owner/operator and a large number of independent tenants, including both ground-based businesses and air carriers. While this pattern of activity initially may suggest a similarity to the familiar industrial park setting, the situation at an airport is significantly more complex.

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[1] The Air Transport Association of America, Inc. serves as the principal trade and service organization of the major scheduled air carriers in the United States. ATA members include Airborne Express, Alaska airlines, Aloha Airlines, America West Airlines, American Airlines, America Trans Air, Atlas Air, Inc., Continental Airlines, Delta Air Lines, DHL Airways, Emery Worldwide, Evergreen International Airlines, Inc., FedEx Corp., Hawaiian Airlines, Midwest Express Airlines, Northwest Airlines, Polar Air Cargo, Southwest Airlines Co., United Airlines, United Parcel Service Airlines, and USAirways. Aero Mexico, Air Canada, KLM Royal Dutch Airlines, and Mexicana are associate members.

Air carriers, for example, often lease airport premises in common, meaning that at any given time the activity in a particular area may be controlled solely by the airport owner, by a single carrier, by multiple carriers, or by a ground-based tenant, with or with out involvement of a carrier or the airport owner. Added to that is the fact that airports and their tenant air carriers are parties to leases, airport-specific ground operations rules and other binding agreements that already establish many of their respective responsibilities with respect to management practices in the Aircraft Operations Area. Of course, safety is always the paramount concern in aircraft operations. As a result ground operations are carefully managed by the carriers and also are regulated directly by the Federal Aviation Administration.

In order to ensure effective control of stormwater-born pollutants in such a complex environment, ATA and its members have found that it is important to allow airports and air carriers the flexibility to closely coordinate their stormwater control activities. Specifically, we have found that the ability to prepare an integrated, airport-wide Stormwater Pollution Prevention Plan (SWPPP) and to allow all permittees to rely on a single airport-wide sampling program are key ingredients in the implementation of effective stormwater control in the air transport industry. Moreover, given the variations from airport to airport, we have found that site-specific review of Best Management Practices is vital.

The importance of maintaining a high degree of coordination between airports and air carriers whose operations are intimately intertwined is evident, and the proposed General Permit already provides significant flexibility in this regard. Similarly, the evaluation of potential Best Management Practices for reasonableness and efficacy individually at each airport is crucial, as no single practice or set of practices will be appropriate for every airport. The proposed General Permit also appears to acknowledge the importance and legal necessity of such site-specific evaluation. ATA provides the following specific comments to assist the Department in producing a final permit that clearly addresses these three concerns and allows airports and their air carrier tenants to reap the benefit of these three important enhancements.

## I. Development of an Integrated, Airport-Wide SWPPP is Superior to Piecemeal Development of Separate Plans by Each Individual Permittee

Stormwater permits are effective precisely to the extent that they result in SWPPPs that clearly identify the compliance obligations of the permittee. With this clarity comes certain knowledge of the applicable requirements and the capacity to objectively ascertain whether compliance has been achieved. And, of course, where obligations are clearly assigned, liability also can be clearly assigned.

In the absence of a clear allocation of responsibilities, however, individual permit holders may be uncertain about their responsibilities and regulatory authorities may be hamstrung in their enforcement efforts. The risk that obligations will not be clearly established is multiplied in the stormwater permitting program, where the bulk of a permittee's obligations are spelled out in a SWPPP of its own making. Further complications arise where multiple permittees with overlapping areas of operations are present within a single facility. The airport environment, in which both of these factors are present, is especially prone to permitting that lacks the necessary clarity.

At airports where multiple permittees develop separate SWPPPs for operations in the same area, the potential for confusion is great. The use of unclear or inconsistent terminology, unintended overlaps in areas of responsibility, the failure to establish consistent management practices for areas of common use, and differences in the level of detail in the competing plans – each of these is a source of confusion as to how obligations are shared among the permittees at the facility. Each lack of clarity in the allocation of responsibilities invites gaps in performance and increases the likelihood that an enforcement authority will be forced to take action against all permittees in order to remedy the failings of a single culpable entity.

A permit that required the development of separate SWPPPs by each permit holder at an airport would invite these kinds of difficulties. On the other hand, by authorizing multiple permittees at an airport to develop and participate in an integrated, airport-wide SWPPP, the Department will enable airports and their airline tenants to cooperate closely and to produce a document that clearly identifies the full range of compliance obligations and unambiguously allocates those obligations to the appropriate parties.

ATA asks the Department to make clear that, at air transport facilities, it is acceptable for separate holders of the new General Permit to jointly develop and submit an integrated, airport-wide SWPPP that explicitly defines the roles and responsibilities of each entity.

## II. Reliance Upon a Coordinated Airport-Wide Sampling Plan Provides the Best Means of Monitoring the Performance of SWPPPs in an Airport Setting

The second fundamental issue in tailoring a stormwater permit to the airport environment is the need for a single, coordinated sampling plan. The carefully coordinated operations and overlapping leaseholds at airports make it vital that the development of a sampling program be undertaken at the facility level. Coupled with the practical impossibility of plane-side sampling during active aircraft ground operations, these considerations argue powerfully for enabling multiple General Permit holders to rely on a single, facility-wide sampling plan.

From the regulatory perspective, use of a multi-permittee, facility-wide sampling program, should satisfactorily answer a number of questions:

Can it obtain the necessary representative data?

Is this the best alternative realistically available?

Is it consistent with the need to ensure the quality of the final discharge to waters of the state?

Is it consistent with practices employed by other states?

In our experience, and as describe more fully below, facility-wide plans can satisfy each of these criteria.

A. Monitoring Sites Can be Selected To Be Representative of Stormwater Associated with Air Carriers' and Other Tenants' Activities

A coordinated, airport-wide sampling plan can be developed to demonstrate the effectiveness of an integrated SWPPP covering both airport and tenant activities. By selecting proper drainage basins for sampling, the plan can determine the effect of Best Management Practices ("BMPs") for airline operations, for land-side road and parking operations, and for any other discrete activity subject to BMPs. Collected over time, data from each of the representative watersheds will show progress or point up the need for further enrichment of that sector's BMPs in just the manner that the permit anticipates.

B. A Single, Coordinate Sampling Plan is the Best Means of Providing Analytical Data on the Effectiveness of BMPs

Selection of representative watersheds for sampling in a coordinated plan has several important benefits over other monitoring models. Of importance to the airlines and their passengers, it allows for characterization of the effectiveness of their jointly-adopted BMPs for ground operations without necessitating plane-side sampling during the most challenging weather and visibility conditions. Avoiding the safety and operational consequences of such activity is a matter of great importance. Moreover, execution of a single coordinated sampling plan eliminates the need for dozens or even hundreds of individual entities to collect essentially the same information. This avoids a confusing overload of information taken by different contractors from different storms using different (if conforming) sampling and analytical protocols. The adoption of a single coordinated plan eliminates these undesirable variables.

C. Water Quality Is Best Protected by End-of-Pipe Sampling of Representative Watersheds

Protection of the receiving State waters requires the collection of analytical data on the final discharges to those waters from the airport's separate storm water drainage system. A coordinated sampling plan can be developed that characterizes precisely these discharges. This is especially important where the final point of discharge is to Section 303(d)-listed waters or waters subject to a completed TMDL. Again, a single coordinated sampling plan relied upon by the airport and all of its permitted tenants will best satisfy this need.

D. Reliance on Airport Sampling Plan is Consistent with Permitting at Other Major Airports

Reliance on coordinated sampling plans at airports is the common means of streamlining sampling programs at other major airports within the U.S. Coordinated sampling of key locations by an airport accommodates the needs of airports, which often have dozens if not hundreds of tenants, while also providing the necessary information on discharge quality to regulatory authorities.

## III. Site-Specific Evaluation of Potential Structural Best Management Practices is Both

**Necessary and Required by Law**

The proposed General Permit appears to require that structural source control BMPs be provided, including either BMPs from Volume IV of the SWMM or equivalent BMPs that result in an equal or better quality of stormwater discharge. This requirement would only partially fulfill the Washington statutory obligation to consider All Known, Available and Reasonable Methods of Prevention and Treatment Technologies ("AKART"). Specifically, while it would ensure that BMPs are "known," it would not necessarily establish that any particular BMP was "available" or "reasonable" at a specific airport facility.

Individual structural BMPs must be evaluated at each airport to determine whether they are reasonable, economic and effective; or if equivalent, non-structural BMPs may be more appropriate. Without such an evaluation, it is not possible to ensure that the AKART standard has been properly applied. Experience at airports nationwide has demonstrated that stormwater management solutions are airport-specific, and that what is reasonable at one airport may not be at another. ATA and its member carriers anticipate that the final General Permit will confirm the need to apply each of the elements of the AKART standard when determining which BMPs should be applied at a specific airport facility.

## CONCLUSION

In closing, ATA and its member carriers appreciate the opportunity to provide the Department with these comments on the proposed re-issuance of the State's General Permit for Stormwater Discharges Associated with Industrial Activities. We stand ready to work with the Department to make this new permit effective and efficient in the unique environment posed by air transportation facilities, including airports. Please do not hesitate to call me at (202) 789-6025 or to contact me at this address should you have any questions about these comments or should you wish to discuss their content.